

REMARKS/ARGUMENTS

Reconsideration of the application is requested.

Claims 14-26 remain in the application. Claims 14, 18 and 23 have been amended.

Claims 18, 19, and 23 have been rewritten in independent form. In light of the indicated allowability thereof, claims 18-21 and 23-24 are now in condition for allowance.

The specification has been amended on page 2 in order to remove the improper reference to claim 1.

The only remaining issues, then, are the rejection of claims 14-17, 22, and 26 as being anticipated by Ohta et al. (US 6,644,055, hereinafter "Ohta") under 35 U.S.C. § 102 and the rejection of claim 25 as being obvious over Ohta in view of Aoki (US 6,978,634) under 35 U.S.C. § 103.

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 221 USPQ 385 (Fed. Cir. 1984). W.L. Gore and Assoc., Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303 (Fed. Cir. 1983).

Here, we respectfully submit, the reference Ohta does not disclose an essential feature of claim 14. The Examiner is requested to consider the following:

Claim 14 recites a logic-dependent action. The internal combustion engine is turned off only if at least two conditions are met. The first condition is “a release of a stop mode of an air-conditioning device,” which depends on “an actual temperature prevailing in an interior of the motor vehicle.”

Ohta calculates a variety of “control values” before the engine is turned off. The vehicle engine is stopped when a logic AND is met (engine stop request AND permission from the air conditioning system). Col. 6, lines 8-11. With regard to the second condition, reference is had to step S300 of the flowchart. There, a target outlet temperature (TAO) is calculated for the air conditioning system. The TAO is the air temperature of the air flowing from the air conditioning vents. Col. 6, lines 40-46. The target air outlet TAO depends, *inter alia*, on the interior temperature TR inside the passenger compartment.

In a broad interpretation, we may read Ohta’s second condition test on applicants’ claimed first condition.

Applicants’ claim 14 requires that a second condition be met, namely, “an expiration of a defined variable time period” that “depends on a temperature difference between the actual temperature prevailing in the interior of the motor vehicle and a setpoint temperature desired by the driver.” The time period is a variable time

period that depends on two other variables (i.e., interior temperature, setpoint temperature).

Ohta also deals with a time delay. That time period, however, is not variable. In fact, the time period does not flow into the system as a conditional variable, but only as a safety parameter to avoid frequent switching off of the engine. With reference to the flowchart in Fig. 3, Ohta tests in step S1000 whether or not the time t_{off} is greater than a predetermined time t_0 . The time t_0 is “set in advance” and it is a fixed time period. As an example, “the predetermined time t_0 is around 20 seconds.” Col. 8, lines 15-22. The time period is simply a delay time to assure that the vehicle engine is not switched on or off too frequently as the test conditions of otherwise allow.

Ohta, therefore, cannot be read on the claimed “variable time period” in applicants’ claims. We respectfully submit that such information is also not inherent in Ohta. The reference does not anticipate claim 14.

We have carefully reviewed the Examiner’s explanation on page 2. According to the Examiner, Ohta “inherently operates the automatic switch off . . . in response to a defined variable time period between the sensed temperature and the desired set point temperature 21.” The conclusion reached by the Examiner is that it would indeed take a variable time period to run the actual temperature down to the setpoint temperature. The conclusion, however, is only correct in the context of applicants’ claims. It is not correct in the context of Ohta. There, the reference explicitly teaches otherwise: the sensed temperature and the setpoint temperature

are not further processed in the time domain (as in applicants' claims) but in the mechanical domain. The variables are only used to decide on how to set the variable displacement compressor. For example, the displacement may be fixed at 100% in step S700 or to a calculated displacement.

To be sure, the cooling of the interior will indeed depend on the various factors and it may take a certain amount of time that depends on these factors. These time periods, however, are not used in a logic decision and they do not form a logic foundation for deciding and switching the system.

The secondary reference to Aoki has been cited with regard to the "multiple zone" teaching. The reference teaching is appreciated. It does not, however, cure the shortcomings of the primary reference with regard to the above-noted variable time issues. The combination of the references Ohta and Aoki does not render any of the claims unpatentable.

In summary, none of the references, whether taken alone or in any combination, either show or suggest the features of claim 14 and its dependent claims.

In view of the foregoing, the allowance of the claims is solicited.

If an extension of time is necessary for this paper, petition for extension is herewith made. Applicants' payment in the amount of \$220.00 for the extra independent claim is being submitted herewith. Please charge any other fees which might be

due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner
Greenberg Sterner LLP, No. 12-1099.

Respectfully submitted,

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WHS:sa

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